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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,646	03/30/2001	Indra Laksono	1459-VIXS002	8519
29331	7590	02/04/2009	EXAMINER	
LARSON NEWMAN ABEL & POLANSKY, LLP			CZEKAJ, DAVID J	
5914 WEST COURTYARD DRIVE				
SUITE 200			ART UNIT	PAPER NUMBER
AUSTIN, TX 78730			2621	
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			02/04/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/823,646	LAKSONO, INDRA	
	<b>Examiner</b>	<b>Art Unit</b>	
	DAVID CZEKAJ	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 July 2008.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 49-96 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 49-96 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to the rejection(s) of the claim(s) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is as set forth below.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 49-64 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled “Clarification of ‘Processes’ under 35 U.S.C. 101”). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. It is unclear what performs the determining and compressing processing steps recited in the method claim.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 49-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Date et al. (5959677), (hereinafter referred to as “Date”) in view of Banks (6139197).

Regarding claim 49, Date discloses an apparatus that relates to performing real-time transmission of pictures (Date: column 1, lines 5-10). This apparatus comprises “determining whether a transmission of a data stream having a plurality of channels is expected to meet a predetermined criteria, the predetermined criteria comprising at least one of real-time transmission of transmission within a predetermined bandwidth” (Date: column 5, lines 11-20) and “compressing at least one of the channels in the stream to generate a first compressed stream when the transmission of the stream is not expected to meet the criteria” (Date: column 5, lines 27-45, wherein the compression is the adjustment of the variable-rate encoders). However, this apparatus lacks determining whether a transmission of the first stream is expected to meet the criteria as claimed. Banks teaches that prior art video delivery systems require the receiver to use special additional hardware to receive the stream (Banks: column 2, lines 30-34). To help alleviate this problem, Banks discloses “determine whether a transmission of the first compressed stream is expected to meet the predetermined criteria” (Banks: column 6, lines 1-25, wherein by determining if data from a less compressed file can be transferred, Banks is determining whether the transmission of the compressed file can be completed in

real time). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the apparatus disclosed by Date and add the determination taught by Banks in order to obtain a system that helps eliminate the need for special hardware located at a receiver. Regarding claim 50, Banks discloses "transmitting the first compressed stream when the transmission is expected to meet the criteria" (Banks: figures 1-2; column 7, lines 30-37).

Regarding claim 51, Date in view of Banks disclose "compressing at least one channel of the stream to generate a second compressed stream when the transmission of the first stream is not expected to meet the criteria and determine whether a transmission of the second stream is expected to meet the criteria" (Date: column 5, lines 12-45; Banks: column 6, lines 1-25, wherein the second stream is the stream from the less-compressed video file).

Regarding claim 52, Banks discloses "transmitting the second compressed stream" (Banks: column 6, lines 20-25).

Regarding claim 53, Date discloses "the predetermined criteria includes a real-time transmission" (Date: column 5, lines 12-15).

Regarding claim 54, Date discloses "the predetermined criteria includes transmission of the stream within a predetermined bandwidth" (Date: column 5, lines 30-35, wherein the bandwidth is the maximum rate of the transmission path).

Regarding claim 55, Date discloses “the bandwidth comprises a maximum bandwidth” (Date: column 5, lines 30-34).

Regarding claim 56, although not disclosed, it would have been obvious to transmit data at a portion of the available bandwidth (Official Notice). Doing so would have been obvious in order to account for fluctuations in the communication channel.

Regarding claim 57, although not disclosed, it would have been obvious to transmit wirelessly (Official Notice). Doing so would have been obvious in order more easily transmit data to a variety of locations.

Regarding claim 58, although not disclosed, it would have been obvious for the data to come from a variety of sources (Official Notice). Doing so would have been obvious in order to accommodate many different types of data.

4. Claims 59-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Date et al. (5959677), (hereinafter referred to as “Date”) in view of Banks (6139197) in further view of Putzolu (6584509).

Regarding claims 59-60, note the examiners rejection for claim 49, and in addition, claims 59-60 differ from claim 49 in that claims 59-60 further require using a round robin mode of selection. Putzolu teaches that a round robin scheme allows all classes to have equal opportunities to access the links (Putzolu: column 7, lines 1-15). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the selection method disclosed by Putzolu in order to obtain an apparatus that

operates more efficiently by being able to select streams in a fair and equal manner.

Regarding claim 61, Banks discloses "selecting the channel having the greatest amount of data" (Banks: column 6, lines 1-5, wherein the greatest amount of data is using the full bandwidth).

Regarding claim 62, Putzolu discloses "selecting is based on prioritization" (Putzolu: figure 3).

Regarding claim 63, although not disclosed, it would have been obvious to select an uncompressed channel over a compressed channel" (Official Notice). Doing so would have been obvious in order to provide a high-quality lossless image to a user.

Regarding claim 64, Banks discloses "compressing in a first manner in response to determining a channel being compressed has not been compressed in the first manner and compressing in a second manner in response to determining the channel has been compressed in the first manner" (Banks: column 6, lines 1-25; column 7, lines 30-40; figures 1-2).

Regarding claims 65-96, note the examiners rejections for claims 49-64.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID CZEKAJ whose telephone number is (571)272-7327. The examiner can normally be reached on Mon-Thurs and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dave Czekaj/  
Primary Examiner, Art Unit 2621